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ONE HUNDRED SIXTH CONGRESS

# Congress of the United States

## House of Representatives

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September 7, 2000

The Honorable Janet Reno  
Attorney General  
United States Department of Justice  
Washington, D.C. 20530

Re: Committee's Subpoena of August 24, 2000

Dear General Reno:

I write regarding the Committee's subpoena of August 24, 2000. That subpoena requires the Justice Department to produce to the Committee the memorandum by Robert Conrad recommending the appointment of a special counsel to investigate Vice President Gore, and any other memoranda prepared during 2000 regarding the appointment of a special counsel to investigate Vice President Gore. The Justice Department was required to produce the documents by August 31, 2000. The Committee has not received any documents in response to the subpoena.

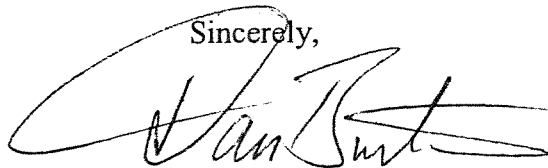
Yesterday, my Chief Counsel spoke with staff in the Office of Legislative Affairs, who attempted to explain why the Department had not yet complied with the subpoena. Mr. Tanner explained that the Department was in the middle of deliberations to determine whether any of the matters discussed in the Conrad memo were open cases. Mr. Tanner further explained that recent motions made by Maria Hsia had cast doubt on the Justice Department's current understanding of what "open cases" were, and that the Department may need to broaden that definition. Mr. Tanner stated that no determination had yet been made whether to comply with the Committee's subpoena, and he would not identify when a decision would be made, or who the relevant decisionmakers were.

After the Committee finally received the Freeh and La Bella memos, I had hoped that the Justice Department was through using specious arguments to avoid complying with the Committee's subpoenas. I am troubled that you would now raise the claim that the Conrad memo involves open cases to avoid producing it to the Committee. Without even referring to the Justice Department's history of providing false representations to this Committee to avoid producing documents, this most recent claim has all of the indicia of a false argument, made in bad faith, to avoid producing documents embarrassing to the Clinton Administration:

- In your press conference of August 23, 2000, you stated that "I have concluded that there is no reasonable possibility that further investigation could develop evidence that would support the filing of charges for making a willful false statement." You told the public that not only would there be no special counsel, but also that there would not even be further investigation of Vice President Gore for making false statements. Now, your staff is telling the Committee that the investigation of the Vice President discussed in the Conrad memo is still potentially an open matter. Obviously, if the Conrad memorandum discusses matters that relate to open cases, we are prepared to entertain your arguments that those specific sections should remain confidential. Otherwise, your statement that "there is no reasonable possibility that further investigation could develop evidence" is dispositive.
- Your staff was not in a position to offer a cogent explanation for the failure to produce the Conrad memo. In the discussion yesterday between Committee staff and your staff, your staff had not reviewed the Conrad memo, was unaware of its contents, and was unaware of the statements you had made at the August 23, 2000, press conference. These facts suggest that your staff has first reached the determination that the Committee cannot have the memo, and has yet to come up with a rationale for that decision.
- The Justice Department made no attempt to resolve this issue with the Committee until well after the deadline for compliance had passed. The Justice Department's delays, while unfortunately typical, suggest that the Department is attempting to drag this matter out as long as possible, in the hope that Congress will adjourn prior to the production of the memo.

It is clear that the Justice Department does not want to produce the Conrad memo to the Committee. In your press conference, you stated that you hoped that Congress would not intervene in this matter and request the memorandum. However, just as this Committee had an obligation to obtain the Freeh and La Bella memos, and determine that you had refused to apply the law to the President, Vice President, and members of your political party, it has an obligation to obtain the Conrad memo. When we sought the Freeh and La Bella memos, you did everything in your power to keep those memos out of the public's view. I would hope that you would not engage in the same legal contortions to avoid producing the Conrad memo to the Committee.

Sincerely,

A handwritten signature in black ink, appearing to read "Dan Burton", with a large, sweeping flourish extending from the end of the signature.

Dan Burton  
Chairman